

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ONWY UZOIGWE,

Plaintiff,

-against-

CHARTER COMMUNICATIONS, LLC,

Defendant.
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BLOOM, United States Magistrate Judge:

Plaintiff moves to vacate the Report the Recommendation (“R&R”) entered on March 18, 2024 pursuant to Federal Rules of Civil Procedure 60(a) and 60(b) (“Fed R. Civ. P.”). ECF No. 48. Plaintiff maintains the exhibits attached to his opposition papers were not correctly docketed. Id. at 1–2 (“For instance, Exhibit H is attachment #3 but should be attachment #10.”). Plaintiff notes the R&R refers to various exhibits in his opposition, and thus he seeks an “opportunity to present the correct documentation which is missing.” Id. at 2.

Under Rule 60(a), the Court may “correct a clerical mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.” Fed. R. Civ. P. 60(a). However, the purpose of Rule 60(a) is “not to reflect a new and subsequent intent of the Court, but to conform the order to the contemporaneous intent of the Court.” Wang v. Int’l Bus. Machines Corp., 839 F. App’x 643, 645–46 (2d Cir. 2021) (summary order) (citation and internal quotation marks omitted). The R&R is neither a judgment nor an order: it is a recommendation for Judge Gonzalez’s consideration. As plaintiff may file his objections to the R&R, plaintiff’s motion to vacate the R&R under Rule 60(a) is denied as without basis.

Plaintiff's motion under Rule 60(b) is likewise denied. Rule 60(b) only applies to "judgments that are final." Transaero, Inc. v. La Fuerza Aerea Boliviana, 99 F.3d 538, 541 (2d Cir. 1996). As the R&R is not a final judgment, Rule 60(b) does not apply.

To the extent that plaintiff believes certain exhibits are "missing" from the docket—specifically, the alleged "written policy [that] was supposed to be uploaded as Exhibit E"—plaintiff shall include that exhibit with his objections to the R&R. Plaintiff shall not include materials that were simply docketed out of order. The Court extends the time for plaintiff to file his objections to the R&R to April 5, 2024.

SO ORDERED.

Dated: March 27, 2024
Brooklyn, New York

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LOIS BLOOM
United States Magistrate Judge